

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

DEON ELTING,

Plaintiff,

v.

TASHEKA LASSITER, Individually,
et al.

Defendants,

Civil No. 22-cv-08573-(PGG)

MEMO ENDORSED

The motion to dismiss is denied. Defendant Lassiter has presented no colorable argument justifying the dismissal of the claims against her. This Court's rulings regarding Defendant Barometre are irrelevant to Defendant Lassiter's liability. The Clerk will re-serve.

**MOTION TO DISMISS PLAINTIFF'S PROPOSED SECOND
AMENDED COMPLAINT**

Dkt. No. 73

So Ordered.

Defendant Lassiter, by Undersigned Counsel, herein submits her Motion to Dismiss the Plaintiff's Proposed Second Amended Complaint.

Paul L. Randolph
USDS
Feb. 20, 2024

The Court made clear that the element that was missing from the Plaintiff's original pleading was that the Plaintiff could not demonstrate that it was brought home to Defendant Barometre that her policies regarding staffing and supervisory rounds presented a substantial risk of sexual assault to Otisville inmates. Dkt. 61, page 13 of 15.

There was simply nothing that substantially changed in the Plaintiff new pleading that remedied that issue. The Plaintiff pled that upon information and belief Barometre was made aware of the staff report regarding Lassiter. Dkt. 67-1 ¶ 30. However, the Plaintiff pleads no specific facts as to the manner in which Barometre obtained that knowledge.

The Plaintiff also pled that Lassiter was involved in two prior unauthorized relationships. Id. at ¶ 34. However, the Plaintiff did not plead that said Defendant's unauthorized relationships

were sexual in nature nor does the Plaintiff plead that Defendant Barometre was informed that Lassiter was involved in unauthorized sexual relationships, let alone that Barometre acted with reckless indifference to the rights of Elting, which led to the sexual assaults against him.

For these reasons, the Court should dismiss the Plaintiff's Second Amended Complaint.

By_____/s/_____
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